

## By Any Other Name

Come March -- two years after it was banned in Canada, a year after it was implicated in the death of a professional baseball player and a few months after many of its biggest marketers had already stopped pushing it -- the United States government will ban the so-called diet supplement called ephedra.

We can expect that report on the structural integrity of the Titanic any day now.

As popular as it sometimes is to blame faceless federal bureaucrats for such a display of indolence, the fact is that it was an act of Congress that stood between the Food and Drug Administration's duty and its ability to do it.

Specifically, the 1994 Dietary Supplement Health and Education Act, pushed by Utah's Sen. Orrin Hatch, makes it nigh onto impossible for the FDA or any other federal agency to ban any diet aid, stimulant or other supposedly health-enhancing substance if its makers can claim it is a naturally occurring substance rather than a synthesized drug.

The law Hatch championed on behalf of his many friends and fellow Utahns in the industry places the burden on the government to prove a supplement is harmful before it can be banned. The law also gives the FDA no power to research diet supplements or to require that those who sell them record or report any problems connected to their products.

That's the polar opposite of what happens with the FDA and man-made drugs, the makers of which are required to prove their products both safe and effective before they can get to market, and keep scrupulous records of every sneeze and backache afterward.

The FDA tried to ban ephedra in 1997 but was told it didn't have enough evidence to meet the Hatch standard. Tuesday, after years more research linking the supplement to more than 100 deaths and a great many strokes and heart attacks, Health Secretary Tommy Thompson was finally confident that the ban, which won't officially kick in for more than two months, can stand up to any lawsuit.

In the meantime, Thompson urged everyone to avoid the stuff like a case of high blood pressure, which is basically what it is.

Neither Hatch's law nor Thompson's agencies are responsible for a society that wants to solve complicated health and lifestyle problems by taking a pill. But the added delay compounds the problem.

By the time the government has the proof it needs to ban a harmful substance, the pill has already built a loyal following of people who will look under the table or over the Internet to get it. So any such ban will be a day late and a dollar short.

Congress should let the FDA treat naturally occurring dietary supplements as the drugs they are. And Hatch, if he cannot lead such an effort, can at least take a pill and lie down for a while.